

**Remarks**

Claims 3-8, 10-14, 17-19, 22-24, 27-29, and 31-39 remain pending in this application. Claims 3, 10, 13, 17, 18, 19, 22-24 and 31-33 have been amended. Reconsideration and allowance of the pending claims is respectfully requested.

Claims 22-24 and 31-33 are objected to because of informalities. Claims 22-24 and 31-33 have been amended in accordance with the Office Action. Withdrawal of this objection is respectfully requested.

Claims 3-8, 10, 11, 13, 14, 17-19 and 22-24 stand rejected under 35 U.S.C. 102(b) as being anticipated by IETF RFC 791. Applicant respectfully requests reconsideration and withdrawal of this rejection.

Claims 3-8 define over RFC 791 since it fails to disclose all the elements of claims 3-8. Independent claim 3 originally recited the operation of "determining an operating status for said operating parameter, with said operating status to comprise active or de-active." Claims 4-8 depend from claim 3. According to the Office Action, RFC 791 discloses a Type of Service parameter of the Internet Datagram Header that comprises the "operating parameter" of claim 3. Further, the Office Action states that the Control Flag parameter of the Internet Datagram Header comprises the "operating status" of claim 3. Office Action, Page 3. Applicant respectfully disagrees with both of these points. Further, the Type of Service parameter and Control Flag parameter are independent of each other, and therefore the Control Flag parameter is not for the Type of Service parameter as originally recited in claim 3. To more clearly emphasize this point, claim 3 has been amended to recite that the operating status is set for the operating parameter. RFC 791 does not discuss any relationship between the Control Flag

parameter and Type of Service parameter. Rather, the Type of Service parameter and Control Flag parameters are independent parameters that may be set without regard to each other. Consequently, RFC 791 fails to disclose all the elements of claims 3-8. Accordingly, removal of the rejection for claims 3-8 is respectfully requested.

Claims 10, 11, 13, 14, 17-19 and 22-24 define over RFC 791 since it fails to disclose all the elements of these claims. Claims 10, 11, 13, 14, 17-19 and 22-24, either directly or indirectly, recite language similar to claim 3. Consequently, RFC 791 fails to disclose all the elements of claims 10, 11, 13, 14, 17-19 and 22-24 for at least the reasons given for claim 3. Accordingly, removal of the rejection for claims 10, 11, 13, 14, 17-19 and 22-24 is respectfully requested.

Claims 27-29 and 31-37 stand rejected under 35 U.S.C. 102(b) as being anticipated by Young et al. Applicant respectfully traverses this rejection.

Claims 27-29 and 31-37 define over Young et al. since it fails to disclose all the elements of these claims. Claims 27-29 and 31-37 are directed to modifying a packet fragment size based upon an operating parameter. Young et al. is directed to a system in which multiple information bit-streams are prioritized and dynamically segmented into variable-length packets, and multiplexed for efficient transmission over a digital communication link. Young et al., Col. 2: Lines 48-52. Packet sizes may be varied based on "the fullness of the information buffers and available bit-rate of the output channel." Id. at Col. 3: Lines 28-30 and Col. 6: Lines 28-48. Young et al., however, does not vary the size of a packet fragment, but rather varies the size of an entire packet based on the fullness of a buffer and available bit-rate of an output channel.

Consequently, Young et al. fails to disclose all the recited elements of claims 27-29 and

Appl. No. 09/752,372

Reply to Office Action of January 8, 2004 (Paper No. 9)

31-37. Accordingly, removal of the rejection for claims 27-29 and 31-37 is respectfully requested.

We would like to thank the Examiner for indicating the allowability of claims 12, 38 and 39 if amended to include all of the limitations of the base claims and any intervening claims. Claim 12 depends from independent claim 10. Claims 38 and 29 depend from independent claim 27. Therefore, it is respectfully submitted that these claims represent patentable subject matter in their current form for at least the same reasons given for claims 10 and 27 above.

Applicant submits that claims 3-8, 10-14, 17-19, 22-24, 27-29 and 31-39 are in allowable form. Accordingly, a Notice of Allowance to this effect is earnestly solicited.

The Examiner is invited to contact the undersigned at 724-933-3387 to discuss any matter concerning this application.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to Deposit Account No. 02-2666.

Respectfully submitted,  
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP



John F. Kacvinsky, Reg. No. 40,040  
Under 37 CFR 1.34(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on: 4/06/2004.

  
Deborah Higham

4/6/04

Date

Dated: 4/6/04

12400 Wilshire Blvd.  
7<sup>th</sup> Floor, Los Angeles, California 90025